

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RAUL ANGEL VALENCIA,

Plaintiff,

v.

No. 24-cv-0476-KWR-KBM

ALISHA TAFOYA, *et al*,

Defendants.

**ORDER DIRECTING CURE AND
DENYING MOTION TO APPOINT COUNSEL**

This matter is before the Court on Plaintiff Raul Angel Valencia's Motions for Leave to Proceed *In Forma Pauperis* (Docs. 3, 7) (IFP Motions). Also before the Court is Plaintiff's Motion to Appoint Counsel (Doc. 4). As to the IFP Motions, Plaintiff does not include a six-month inmate account statement, as required by 28 U.S.C. § 1915(a)(2). Plaintiff shall cure this deficiency within thirty (30) days of entry of this Order. All filings should include the case number (No. 24-cv-0476-KWR-KBM) and be labelled as legal mail. The failure to timely comply with this Order may result in dismissal without further notice.

As to the remaining motion, "[c]ourts are not authorized to appoint counsel in 1983 ... cases; instead, courts can only 'request' an attorney to take the case" on a *pro bono* basis. *Rachel v. Troutt*, 820 F.3d 390, 397 (10th Cir. 2016). This decision is a matter of discretion. *Toevs v. Reid*, 685 F.3d 903, 916 (10th Cir. 2012). Relevant factors include "the merits of the claims, the nature of the claims, [the inmate's] ability to present the claims, and the complexity of the issues." *Rachel*, 820 F.3d at 397. Considering these factors, the Court will not ask a local attorney to handle this case on a *pro bono* basis. The claims primarily pertain to Plaintiff's conditions of

confinement/excessive force and are not particularly complex. Plaintiff's filings also reflect he is able to prosecute this action on a *pro se* basis. The Motion to Appoint Counsel (Doc. 4) will therefore be denied without prejudice.

IT IS ORDERED that within thirty (30) days of entry of this Order, Plaintiff shall submit an inmate account statement reflecting transactions for a six-month period; and Plaintiff's Motion to Appoint Counsel (**Doc. 4**) is **DENIED without prejudice**.


UNITED STATES MAGISTRATE JUDGE